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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/503,770	02/14/00	PERRAULT	J 041861-25301

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EXAMINER	
YU, G	
ART UNIT	PAPER NUMBER

1619
DATE MAILED: 09/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/503,770

Applicant(s)

PERRAULT ET AL.

Examiner

Gina C. Yu

Art Unit

1619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-36 and 52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-36 and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of Amendment and Terminal Disclaimer filed on July 2, 2001. Claims 2 and 37-51 have been cancelled, and claims 1,3-36, and 52 are pending.

Terminal Disclaimer

The terminal disclaimer filed on July 2, 2001 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Pat. No. 5,800,658 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Objections

(A) The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 37 been renumbered to claim 52.

(B) Claims 3-10 are objected to because as their base claim, claim 2 has been cancelled by applicants. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3-23, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaughn et al. (WO 92/06694) in view of Jevne et al. (U.S. Pat. No. 5,525,356).

Vaughn et al. teach antimicrobial hydrogels comprising cationic antimicrobial quaternary ammonium salts. The reference teaches that cationic antimicrobial compounds such as quaternary ammonium salts are particularly effective, and the gel is stable to a variety of fluid media. See p. 1, lines 1 – 12. The particularly effective quaternary ammonium antimicrobial salts, which meets instant claims, are disclosed on p. 5, line 9 – p. 6, line 16. Using cation polyacrylates to make the hydrogel is also disclosed on p. 6, line 16 – p. 8, line 9. The reference lacks the teaching of the use of the gel as wound dressing.

Jevne et al. teach polymer amphoteric hydrogel used in medical devices, including as wound dressing and bandage. See abstract, col.1, lines 21 – col. 2, line 44. The most preferred polymer for this invention is polymerized methacrylamido-propyl-trimethylammonium hydroxide (MAPTAH), which is considered to be the monomer of figure (I) in the instant claim 1. See col. 5, line 5 – col. 6, line 57. The reference further teaches that the ionic structure of the hydrogel can be modified to include a desired level of mobile ionic species by introducing unbound anions or cations at the time the hydrogel is formed. See col. 5, lines 29-37.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the composition of Vaughn et al. by using the acrylimide quaternary ammonium to make the hydrogel, as taught by Jevne et al., because of the expectation of successfully producing hydrogel composition and devices for medical use. The optimum weight range of the polymer in the composition would have been discovered by routine experimentation.

(B) Claims 24 – 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaughn et al. and Jevne et al. as applied to claims 1, 11-23 and 52 above, and further in view of Kozak (U.S. Pat. No. 3,871,376).

Vaughn et al. and Jevne et al. are discussed above. Although Jevne et al. teaches the applying the invention in bandage, the combined references lack the specific teaching of the devices of instant claims 24 – 34.

Kozak teaches a wound dressing bandage of comprising dressing sheets and flexible cooling device which is polymeric hydrogel. See abstract; col. 2, line 17 – col. 8, line 20.

Given the general teaching of making bandage with the hydrogel of the combined references, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have looked to the prior arts such as Kozak for specific teaching of preparing hydrogel containing bandages.

Response to Arguments


Applicant's arguments with respect to claims 1-36 and 52 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 703-305-3593.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana Dudash can be reached on 703-308-2328. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Gina C. Yu
Patent Examiner
September 22, 2001



DIANA DUDASH
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